

CV-05 1353

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CATHERINE TENGA,

Plaintiff,

-against-

SOFTHEON, INC.,

Defendant.

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x

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ MAR 14 2005 ★

LONG ISLAND OFFICE

COMPLAINT

Jury Trial Demanded

WEINSTEIN, J.

LINDSAY, M.

Plaintiff, by and through her attorney, alleges as follows:

INTRODUCTION, JURISDICTION AND VENUE

1. Plaintiff brings this action seeking monetary damages based upon Defendant's violation of the Fair Labor Standards Act of 1938 (hereinafter "FLSA"), as amended, 29 U.S.C. § 201 *et seq.*, and the New York State Department of Labor Regulations, 29 N.Y.C.R.R. §142-2.2.

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1337 and 1367.

3. The unlawful practices alleged below were committed within the State of New York, County of Suffolk. Accordingly, this action properly lies in the United States District Court for the Eastern District of New York, pursuant to 28 U.S.C. § 1391.

THE PARTIES

4. Plaintiff was at all times hereinafter mentioned and is a resident of the State of New York, County of Suffolk, residing at 50 Potter Street in Patchogue.

damages, interest and attorney's fees.

SECOND CLAIM FOR RELIEF
(Failure to Pay Overtime in Violation of New York Department of Labor Regulations)

22. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 21 of this Complaint as though fully set forth herein.

23. Defendant willfully failed to compensate Plaintiff for time worked in excess of 40 hours per week at a rate of at 1½ times her regular hourly rate since on or about July 12, 2001, in violation of N.Y.C.R.R. §142-2.2.

24. As a result of Defendant's willful failure to pay plaintiff the overtime rate required, Plaintiff is owed overtime compensation in an amount estimated to be approximately \$40,000. A more precise amount will be calculated after reviewing Defendant's records of the number of hours worked by Plaintiff each week.

25. Pursuant to the New York State Labor Law, Defendant is also liable to Plaintiff for liquidated damages, interest and attorney's fees.

DEMAND FOR A JURY TRIAL

26. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 25 of this Complaint as though fully set forth herein.

27. Plaintiff demands a trial by jury.

WHEREFORE, Plaintiff requests judgment as follows:

a. On his first cause of action, that the Court order Defendant to pay Plaintiff actual damages for uncompensated overtime wages, in an amount to be determined at trial, plus interest, and an equal amount as liquidated damages pursuant to Section 216 of the FLSA, 29 U.S.C. § 216(b).

b. On his second cause of action, that the Court order Defendant to pay Plaintiff actual damages for uncompensated overtime wages, in an amount to be determined at trial, plus interest, and an additional 25% as liquidated damages pursuant to Section 198 of the New York State Labor Law.

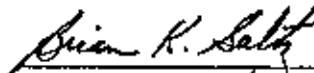
c. On both causes of action, that the Court order Defendant to pay all costs and disbursements of this action, including Plaintiff's attorneys' fees.

d. That the Court order such other and further relief as may be just and proper.

Dated: Farmingdale, New York
February 17, 2005

BRIAN K. SALTZ, ESQ.
Attorney for Plaintiff
500 Bi-County Boulevard, Suite 112
Farmingdale, New York 11735
(631) 439-0158

BY:


Brian K. Saltz (BS-5857)

Complaint.wpd